

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2234/1dn
EVM:kjf:ph

April 26, 2013

ATTN: Rep. Jim Ott

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Mr. Dague suggested removing “acting under the direction of a physician.” I did not make this change as it appears inconsistent with the intent of your request. The “under the direction” language appears to allow any person, including a person who is not a medical professional, to withdraw blood if under the direction of a physician. Removing this language would, therefore, eliminate a category of persons authorized to perform blood draws. Please let me know if you want this changed.
2. This draft adds phlebotomists and “other medical professionals who customarily draw blood” to the list of persons who may draw blood under s. 343.305 (5) (b). The use of “customarily” in the description of the second group is somewhat ambiguous. Is this provision necessary? If you want to add a catch-all, some other possible options that might be less ambiguous include: “other medical professionals trained in drawing blood” or “medical professionals who draw blood as part of their usual duties at the medical facility.” Would you instead like to specifically catalog additional authorized persons?
3. Would you like to treat ss. 23.33 (4p) (b) 4., 30.684 (2) (d), or 350.104 (2) (d) similarly to s. 343.305 (5) (b)?
4. The mandatory minimum issue that Mr. Dague identifies is slightly different from the issue raised in *State v. Williams*, Wis. Ct. App. No. 2011AP2868. This draft addresses both issues. Please let me know if this does not meet your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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